

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OHIO

LEON MOSIER, individually and on
behalf of all others similarly situated,

Plaintiff,

v.

FIRSTSOURCE SOLUTIONS USA
LLC, a Delaware registered company,

Defendant,

Case No.

CLASS ACTION COMPLAINT

DEMAND FOR JURY TRIAL

CLASS ACTION COMPLAINT

Plaintiff Leon Mosier (“Plaintiff Mosier” or “Mosier”) brings this Class Action Complaint and Demand for Jury Trial against Defendant Firstsource Solutions USA LLC (“Defendant” or “Firstsource”) to stop the Defendant from violating the Telephone Consumer Protection Act by placing pre-recorded calls without consent. Plaintiff also seeks injunctive and monetary relief for all persons injured by Defendant’s conduct. Plaintiff Mosier, for this Complaint, alleges as follows upon personal knowledge as to himself and his own acts and experiences, and, as to all other matters, upon information and belief, including investigation conducted by his attorneys.

PARTIES

1. Plaintiff Leon Mosier is a resident of Swanton, Ohio.

1
2 2. Defendant Firstsource is a Delaware registered company headquartered
3 in Louisville, Kentucky. Defendant Firstsource conducts business throughout this
4 District and throughout Ohio.
5

6 **JURISDICTION AND VENUE**

7 3. This Court has federal question subject matter jurisdiction over this
8 action under 28 U.S.C. § 1331, as the action arises under the Telephone Consumer
9 Protection Act, 47 U.S.C. §227 (“TCPA”).
10

11 4. This Court has personal jurisdiction over the Defendant because the
12 Defendant does business in this District and makes calls into this District.
13

14 5. Venue is proper in this District under 28 U.S.C. § 1391(b) because the
15 Plaintiff resides in this District and the wrongful conduct giving rise to this case was
16 directed by Defendant into this District.
17

18 **INTRODUCTION**

19 6. As the Supreme Court explained at the end of its term this year,
20 “Americans passionately disagree about many things. But they are largely united in
21 their disdain for robocalls. The Federal Government receives a staggering number
22 of complaints about robocalls—3.7 million complaints in 2019 alone. The States
23 likewise field a constant barrage of complaints. For nearly 30 years, the people’s
24 representatives in Congress have been fighting back.” *Barr v. Am. Ass’n of Political*
25 *Consultants*, No. 19-631, 2020 U.S. LEXIS 3544, at *5 (U.S. July 6, 2020).
26
27
28

1 7. When Congress enacted the TCPA in 1991, it found that telemarketers
2 called more than 18 million Americans every day. 105 Stat. 2394 at § 2(3).

3
4 8. By 2003, due to more powerful autodialing technology, telemarketers
5 were calling 104 million Americans every day. In re Rules and Regulations
6 Implementing the TCPA of 1991, 18 FCC Rcd. 14014, ¶¶ 2, 8 (2003).

7
8 9. The problems Congress identified when it enacted the TCPA have only
9 grown exponentially in recent years.

10 10. According to online robocall tracking service “YouMail,” 4.9 billion
11 robocalls were placed in June 2023 alone, at a rate of 161.9 million per day.
12 www.robocallindex.com (last visited July 5, 2023).

13
14 11. The FCC also has received an increasing number of complaints about
15 unwanted calls. FCC, Consumer Complaint Data Center, www.fcc.gov/consumer-
16 help-center-data.

17
18 12. “Robocalls and telemarketing calls are currently the number one source
19 of consumer complaints at the FCC.” Tom Wheeler, *Cutting off Robocalls* (July 22,
20 2016), statement of FCC chairman.¹

21
22
23
24
25
26
27
28

¹ <https://www.fcc.gov/news-events/blog/2016/07/22/cutting-robocalls>

1 13. “The FTC receives more complains about unwanted calls than all other
2 complaints combined.” Staff of the Federal Trade Commission’s Bureau of
3 Consumer Protection, *In re Rules and Regulations Implementing the Telephone*
4 *Consumer Protection Act of 1991*, Notice of Proposed Rulemaking, CG Docket No.
5 02-278, at 2 (2016).²
6
7

8 COMMON ALLEGATIONS

9 14. Defendant Firstsource handles the billing and screening of medical
10 patients, offering medical assistance and debt collection solutions throughout the
11 U.S.³
12

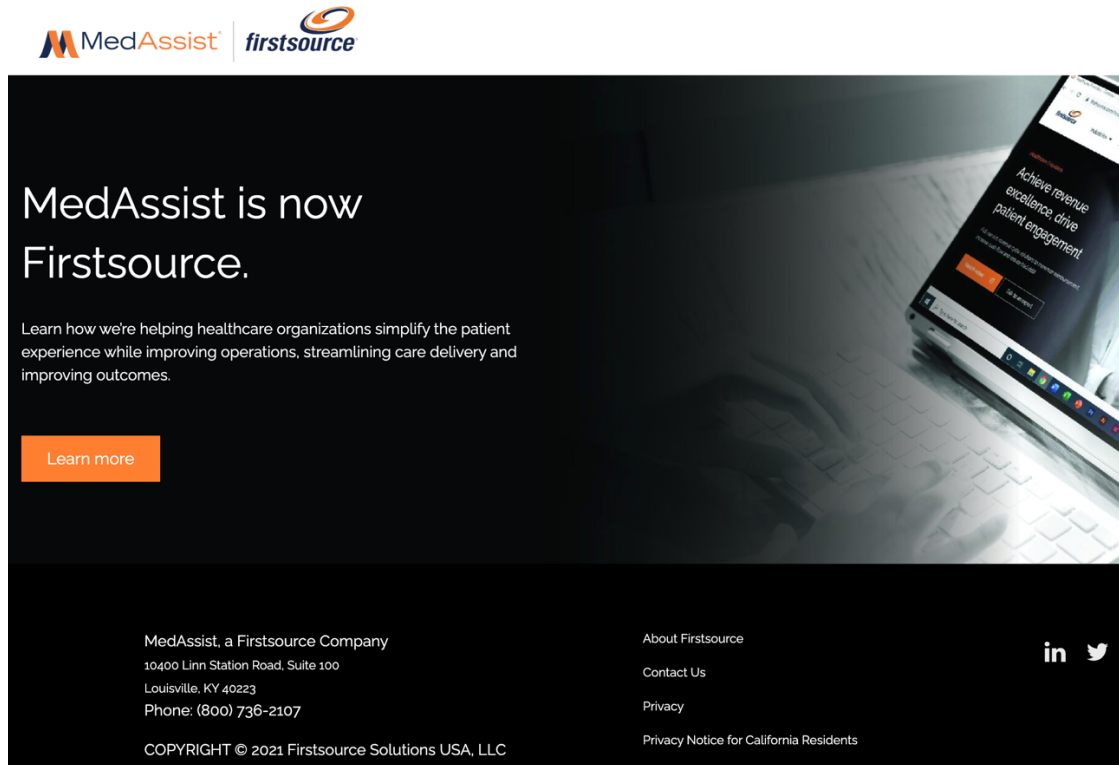
13 15. Firstsource Solutions, the parent company of Firstsource acquired
14 MedAssist in 2003.⁴
15

16 16. FirstSource still operates using the company name MedAssist, as per
17 Plaintiff’s experience and as per the MedAssist website:
18
19
20
21
22
23

24 ² [https://www.ftc.gov/system/files/documents/advocacy_documents/comment-staff-ftc-bureau-](https://www.ftc.gov/system/files/documents/advocacy_documents/comment-staff-ftc-bureau-consumer-protection-federal-communications-commission-rules-regulations/160616robocallscomment.pdf)
25 [consumer-protection-federal-communications-commission-rules-](https://www.ftc.gov/system/files/documents/advocacy_documents/comment-staff-ftc-bureau-consumer-protection-federal-communications-commission-rules-regulations/160616robocallscomment.pdf)
26 [regulations/160616robocallscomment.pdf](https://www.ftc.gov/system/files/documents/advocacy_documents/comment-staff-ftc-bureau-consumer-protection-federal-communications-commission-rules-regulations/160616robocallscomment.pdf)

27 ³ <https://www.firstsource.com/healthcare/healthcare-providers>

28 ⁴ [https://www.forbes.com/2007/08/30/medassist-firstsource-deal-markets-equity-](https://www.forbes.com/2007/08/30/medassist-firstsource-deal-markets-equity-cx_rd_0830markets1.html?sh=6669132f6c9f)
[cx_rd_0830markets1.html?sh=6669132f6c9f](https://www.forbes.com/2007/08/30/medassist-firstsource-deal-markets-equity-cx_rd_0830markets1.html?sh=6669132f6c9f)



17. FirstSource places debt collection and financial assistance calls to consumers throughout the U.S.

18. Defendant Firstsource places pre-recorded telemarketing calls to offer its financial solutions, oftentimes without the appropriate consent necessary to place such calls.

19. Consumers have captured and posted pre-recorded calls they received from Firstsource online, including:

⁵ <https://www.gomedassist.com/>

GET ALL INFO ON 419-469-1473

[I Own This Number](#)

Typical Messages

☞ Please continue to hold your call is very important to us. Hello this is Med assist calling on behalf of ... Regional Medical Center calling with an important message for ****. We're calling to determine if you qualify for financial assistance programs. This is a complimentary service provided free of charge to you by the hospital. Please call at your earliest convenience at 866-772-8204. To expedite the pre-qualification process and better serve you please reference number 100027837. When inquiring about this free service. Thank you and have a good day.

☞ Hello, this is first floors calling on behalf of Regional one calling with an important message for **** we're calling to determine if you qualify for financial assistance programs. This is a complimentary service provided free of charge to you by the hospital please go to sweet dot. First source .com or call at your earliest convenience at 866751352 expedite the pre, qualification process and better serve you please reference number 105255308 when inquiring about this free service. Once again this is first Source call.

☞ Hello this is Med assist calling on behalf of * calling with an important message for *. We are calling to determine if you qualify for financial assistance programs. This is a complimentary service provided free of charge to you by the hospital. Please call us at your earliest convenience at 877-572-0774 to expedite the pre-qualification process and better serve you please reference number 95223168. Again this is Med assist calling on behalf of * calling with an important message for *. We are calling to determine if you qualify for financial assistance programs. This is a complimentary service provided free of charge to you by the hospital. Please call us at your earliest convenience at 877-572-0774 to expedite the pre-qualification process and better serve you please reference number 95223168 when inquiring about this free service test. Again mama the number of mount Carmel East Hospital. This is a message for Yvonne Muldrow this is ...

6

20. Consumers have posted complaints and reports online claiming that they also received pre-recorded calls from Defendant Firstsource that were intended for a different consumer, as per Plaintiff's experience, including:

- "Collection service with my # [attached] someone else's name"⁷
- "back in December contacted me about financial assistance for a hospital bill that wasn't me..."⁸

⁶ <https://directory.youmail.com/phone/419-469-1473>

⁷ Id.

⁸ <https://www.bbb.org/us/ky/louisville/profile/health/firstsource-solutions-usa-llc-0402-2005206/complaints>

- “Calling for someone else”⁹
- “Wrong number”¹⁰

21. Defendant does not procure the appropriate consent before placing pre-recorded collection calls to consumers.

22. In response to these calls, Plaintiff Mosier brings this case seeking injunctive relief requiring the Defendant to cease from violating the TCPA, and an award of statutory damages to the members of the Class and costs.

PLAINTIFF MOSIER’S ALLEGATIONS

23. Plaintiff Mosier is the sole owner and user of his cell phone number.

24. Plaintiff Mosier has owned his cell phone number for over 2 years.

25. On May 23, 2023 at 10:27 AM, Plaintiff Mosier received a call from Defendant Firstsource to his cell phone, from 419-469-1473.

26. When Plaintiff Mosier answered this call, he heard a pre-recorded voice message from MedAssist on behalf of Mercy Hospital regarding financial assistance for a recent hospital stay.

27. Plaintiff Mosier did not have a stay at Mercy Hospital and does not have a debt owing to any hospital. He does not require financial assistance for a medical-related debt.

⁹ <https://www.shouldianswer.com/phone-number/8665177420>

¹⁰ <https://lookup.robokiller.com/p/866-606-9159>

1 28. Phone number 419-469-1473 is owned/operated by Firstsource.¹¹

2 29. Plaintiff Mosier received additional unwanted pre-recorded calls from
3 Defendant Firstsource on:
4

- 5 • May 30, 2023 at 12:14 PM from 419-469-1473;
- 6 • June 6, 2023 at 10:10 AM from 419-469-1473;
- 7 • June 20, 2023 at 10:00 AM from 419-469-1473;
- 8 • June 27, 2023 at 10:37 AM from 419-469-1473; and
- 9 • July 5, 2023 at 1:39 PM from 419-469-1473.

10 30. All of the aforementioned calls were answered by Plaintiff Mosier. All
11 of the calls were pre-recorded, containing a message regarding Mercy Hospital
12 offering financial assistance for medical bills.
13

14 31. Plaintiff Mosier believes that the phone calls he received were pre-
15 recorded due to his hearing a robotic-sounding voice, unnatural pauses in the speech,
16 such as when stating the name Firstsource. In addition, other consumers have posted
17 the same, or similar pre-recorded messages from Defendant Firstsource online, from
18 the same phone number Plaintiff received calls from, including:
19
20
21
22
23
24
25
26

27 ¹¹ Based on an investigation conducted by Plaintiff's attorneys. If one calls this number 419-469-
28 1473 a prerecorded message identifies the company as Firstsource.

Robokiller

Mobile App

Block Spam

Contact

Try for free

Sign In >

Alternately: **+14194691473**

Reported Name: **Foreign Language**

Reported Category: **Foreign Language**

Last call: **June 30, 2023**

Total Calls: **1,594**

Robokiller User Reports: **4**

Transcript

hello this is First Source calling on behalf of
 Mercy [REDACTED] Hospital calling with an
 important message [REDACTED] we're calling
 to determine if you qualify for financial
 assistance programs this is a
 complimentary service provided free of
 charge to you by the hospital please press 1

12

32. Plaintiff never provided consent for Defendant Firstsource to place pre-recorded calls to his cell phone number.

33. The unauthorized telephone calls that Plaintiff received from or on behalf of Defendant has harmed Plaintiff Mosier in the form of annoyance, nuisance, and invasion of privacy, occupied his phone memory, and disturbed the use and enjoyment of his phone.

34. Seeking redress for these injuries, Plaintiff Mosier, on behalf of himself and Class of similarly situated individuals, brings suit under the TCPA.

CLASS ALLEGATIONS

35. Plaintiff Mosier brings this action pursuant to Federal Rules of Civil Procedure 23(b)(2) and 23(b)(3) and seeks certification of the following Class:

¹² <https://lookup.robokiller.com/p/419-469-1473>

1 **Pre-recorded No Consent Class:** All persons in the United States who
2 from four years prior to the filing of this action through class certification
3 (1) the Defendant called on their cellular telephone number (2) using an
4 artificial or pre-recorded voice.

5 36. The following individuals are excluded from the Class: (1) any Judge
6 or Magistrate presiding over this action and members of their families; (2)
7 Defendant, its subsidiaries, parents, successors, predecessors, and any entity in
8 which either Defendant or their parents have a controlling interest and their current
9 or former employees, officers and directors; (3) Plaintiff's attorneys; (4) persons
10 who properly execute and file a timely request for exclusion from the Class; (5) the
11 legal representatives, successors or assigns of any such excluded persons; and (6)
12 persons whose claims against the Defendant have been fully and finally adjudicated
13 and/or released. Plaintiff Mosier anticipates the need to amend the Class definition
14 following appropriate discovery.

15 37. **Numerosity and Typicality:** On information and belief, there are
16 hundreds, if not thousands of members of the Class such that joinder of all members
17 is impracticable, and Plaintiff is a member of the Class.

18 38. **Commonality and Predominance:** There are many questions of law
19 and fact common to the claims of the Plaintiff and the Class, and those questions
20 predominate over any questions that may affect individual members of the Class.
21
22
23
24
25
26
27
28

1 Common questions for the Class include, but are not necessarily limited to the
2 following:

- 3
- 4 (a) whether Defendant placed pre-recorded voice message calls to Plaintiff
5 and members of the Pre-recorded No Consent Class without first
6 obtaining consent to make the calls;
7
- 8 (b) whether the calls constitute a violation of the TCPA;
- 9 (c) whether members of the Class are entitled to treble damages based on
10 the wilfulness of Defendant's conduct.
11

12 39. **Adequate Representation:** Plaintiff Mosier will fairly and adequately
13 represent and protect the interests of the Class, and has retained counsel competent
14 and experienced in class actions. Plaintiff Mosier has no interests antagonistic to
15 those of the Class, and the Defendant has no defenses unique to Plaintiff. Plaintiff
16 Mosier and his counsel are committed to vigorously prosecuting this action on behalf
17 of the members of the Class, and have the financial resources to do so. Neither
18 Plaintiff Mosier nor his counsel have any interest adverse to the Class.
19
20

21 40. **Appropriateness:** This class action is also appropriate for certification
22 because the Defendant has acted or refused to act on grounds generally applicable
23 to the Class and as a whole, thereby requiring the Court's imposition of uniform
24 relief to ensure compatible standards of conduct toward the members of the Class
25 and making final class-wide injunctive relief appropriate. Defendant's business
26
27
28

1 practices apply to and affect the members of the Class uniformly, and Plaintiff's
2 challenge of those practices hinges on Defendant's conduct with respect to the Class
3 as wholes, not on facts or law applicable only to Plaintiff Mosier. Additionally, the
4 damages suffered by individual members of the Class will likely be small relative to
5 the burden and expense of individual prosecution of the complex litigation
6 necessitated by Defendant's actions. Thus, it would be virtually impossible for the
7 members of the Class to obtain effective relief from Defendant's misconduct on an
8 individual basis. A class action provides the benefits of single adjudication,
9 economies of scale, and comprehensive supervision by a single court.
10
11
12

13 **FIRST CLAIM FOR RELIEF**

14 **Telephone Consumer Protection Act**

15 **(Violation of 47 U.S.C. § 227)**

16 **(On Behalf of Plaintiff Mosier and the Pre-recorded No Consent Class)**

17 41. Plaintiff repeats and realleges the prior paragraphs of this Complaint
18 and incorporates them by reference herein.

19 42. Defendant transmitted unwanted telephone calls to Plaintiff Mosier and
20 the other members of the Pre-recorded No Consent Class using a pre-recorded voice
21 message.

22 43. These pre-recorded voice calls were made *en masse* without the prior
23 express written consent of the Plaintiff and the other members of the Pre-recorded
24 No Consent Class.

25 44. The Defendant has, therefore, violated 47 U.S.C. § 227(b)(1)(A)(iii).
26 As a result of Defendant's conduct, Plaintiff and the other members of the Pre-
27 recorded No Consent Class are each entitled to a minimum of \$500 in damages, and
28 up to \$1,500 in damages, for each violation.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

PRAYER FOR RELIEF

WHEREFORE, Plaintiff, individually and on behalf of the Class, prays for the following relief:

- a) An order certifying this case as a class action on behalf of the Class as defined above; appointing Plaintiff as the representative of the Class; and appointing his attorneys as Class Counsel;
- b) An award of actual and/or statutory damages and costs;
- c) An order declaring that Defendant's actions, as set out above, violate the TCPA;
- d) An injunction requiring Defendant to cease all pre-recorded calling activity that is done without proper consent, and to otherwise protect the interests of the Class; and
- e) Such further and other relief as the Court deems just and proper.

JURY DEMAND

Plaintiff Mosier requests a jury trial.

LEON MOSIER, individually and on
behalf of all others similarly situated,

DATED this 11th day of July, 2023.

By: /s/ Brian T. Giles

Brian T. Giles
Brian@gilesharper.com
Giles & Harper, LLC
7243 Beechmont Avenue,
Cincinnati, Ohio 45230
Telephone: (513) 379-2715

1
2 Avi R. Kaufman*
3 kaufman@kaufmanpa.com
4 KAUFMAN P.A.
5 237 South Dixie Highway, Floor 4
6 Coral Gables, FL 33133
7 Telephone: (305) 469-5881

8 * *Pro hac vice forthcoming*

9 *Attorneys for Plaintiff and the putative Class*
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28